



## STAFF REPORT

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### **Introduction of Amendments to Chapter 7, Belmont Municipal Code, Article XI, Property Maintenance and Abatement of Property Nuisances, Sections 7-401–7-500**

Mayor and City Council of the City of Belmont  
Belmont CA

Honorable Mayor and Council members:

#### **Summary**

Pursuant to City Council instruction, the staff is now in the process of proposing amendments to each chapter of the Belmont Municipal Code. The purpose of this comprehensive review is to update the code book by deletion of outdated material and insertion of language changes to reflect current City policy, practice and changes in the law since the adoption or last amendment to the code book. On July 27, 2004, staff brought to the City Council, for discussion and direction, proposed changes to Chapter 7, Article XI, Property Maintenance and Abatement of Property Nuisances, Sections 7-401–7-500. Based on City Council direction that evening, this report contains proposed ordinance revisions for the City Council to review and, if appropriate, introduce for adoption.

#### **Background and Discussion**

Per the City Council direction given on July 27, 2004, staff is proposing several amendments for Chapter 7, Article XI of the Belmont Municipal Code. The staff report from the July 27, 2004 meeting is attached for the City Council's reference. (Attachment 1)

The property maintenance provisions in the Belmont Municipal Code are found in Chapter 7, Article XI, Section 7-401. As indicated in the July 27, 2004 staff report at page 11-12, over the last several months, the City Attorney received requests to present the City Council with additional categories of violations for consideration in amending the ordinance. These include:

- a. Large storage containers placed either in the public right-of-way or in areas visible from the public right-of-way.

- b. Recreational vehicles (RV's) parked in driveways or other areas of property visible from the public right-of-way.

In addition to proposed revisions to the violations section of the property maintenance ordinance, staff also asked the City Council on July 27, 2004 for direction on various enforcement mechanisms (i.e., current practice of civil complaints for injunctive relief or citations for infractions/misdemeanors, utilization of Planning Commission/City Council hearings to declare property a public nuisance or amendment of the Municipal Code to create an administrative hearing and fine process).

As indicated in the Fiscal Impact report, staff is now in the process of gathering information to present to the City Council on enforcement mechanism options. That item will be brought to the City Council later this year. This report relates to the language changes proposed for Section 7-401, Classification of Nuisances.

### **Council Meeting of July 27, 2004**

Much of the discussion on July 27, 2004 focused on RV parking. Suggestions offered for inclusion in the revised ordinance included prohibiting parking of RV's on private property in areas visible from the public right-of-way, adopting time limits for parking of RV's on private property in areas visible from the public right-of-way, adding specific language to the Municipal Code to address site distance and safety concerns generated by parking of RV's in the front/side yard or driveway, or leaving the property maintenance ordinance as currently drafted, thus prohibiting only the storage of unregistered or inoperative RV's.

The majority of the City Council expressed concerns regarding traffic safety issues created by RV's parked so as to create site distance problems. Based upon that input, staff now proposes revisions to Section 7-401(1)(g) to limit the areas in which RV's may be parked on private property.<sup>1</sup>

The City Council expressed consensus on addressing storage units on private property. The proposed ordinance revision at Section 7-401(2)(f) addresses this issue.

Finally, the City Attorney, at the request of the Code Enforcement Officer, has also included a provision placing time limits on trash cans placed in areas visible from the public right-of-way (Section 7-401(c)(8)) and additional "clean up" language to address language ambiguities in the current code language.

The following are the proposed revisions. Please note that staff has provided the City Council

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<sup>1</sup> While no Council consensus was expressed regarding time limited parking, two Council Members requested information on time limited parking provisions. Attachment 2 is a copy of Foster City Municipal Code Chapter 17.64, Vehicle and Recreational Vehicle Storage. See Section 17.64.040 for time limited parking provision.

with several alternatives on the question of RV parking. Proposed new language is shown in bold font and proposed deletions are shown in strikeout.

Section 7-401. Classification of Nuisances.

The following acts and conditions, when performed or existing upon any lot, piece or parcel of land within the City of Belmont, are hereby defined as and declared to be public nuisances ~~when of such magnitude as to be~~ **because they are deemed to be** injurious or potentially injurious to the public health, safety and welfare ~~or which~~ **and they** have a tendency to degrade the appearance and property values of surrounding property or ~~which~~ cause damage to public rights-of-way:

1. Property **where:**

a. ~~Land where~~ Erosion, subsidence, or surface water drainage problems exist.

b. Overgrown vegetation; dead, decayed, diseased, or hazardous trees, **firewood**; weeds and other vegetation **is** likely to harbor rats, vermin or nuisances or ~~which~~ may be a fire hazard.

c. **Garbage or trash cans or containers remain in front or side yards or areas visible from the public right-of-way at any time other than 6:00 p.m. on the day before scheduled trash pickup to 6:00 p.m. the day after trash pickup (i.e., 48 hours total).**

d. **An individual or entity is conducting a business and the business is not entirely conducted within the structure in violation of the Zoning Ordinance and is not a legal non-conforming use pursuant to other provisions of this Code or the Zoning Code.**

e e. ~~Storage~~ For a period longer than seven (7) days ~~of~~ any of the following **is maintained:**

(1) Abandoned, wrecked, dismantled **boats, boat trailers, inoperative or unregistered for operation** motor vehicles, **recreational vehicles, recreational vehicle equipment,** trailers, campers, **camper shells, vans, minivans, pickup trucks,** boats or similar vehicles, ~~or similar vehicles which are inoperative or unregistered for operation.~~

(2) Debris, rubbish, and trash visible from public rights-of-way.

(3) Broken, **inoperative** or discarded household furnishings, appliances, boxes and cartons, lawn maintenance equipment, play equipment, toys and similar materials.

(4) Discarded building materials.

(5) Discarded, ~~wrecked~~ **broken** or ~~inoperable~~ ~~household appliances,~~ **inoperative** machines and tools.

(6) Materials or items of any nature ~~stored~~ on roof tops.

(7) Garbage or trash cans or containers ~~stored in front or side yards and visible from public streets or~~ ~~garbage or trash cans or containers which cause offensive odors to neighbors~~ **which cause offensive odors to neighbors.**

d f. Attractive nuisances **exist** (those objects which, by their nature, may attract children or other curious individuals) including, but not limited to unprotected and/or hazardous pools, ponds, ice boxes, refrigerators, excavations, or personal property not expressly incorporated into the landscaping or which is likely to cause injury to children or other curious individuals.

e g. Clothes lines **are located** in front yard areas.

f h. ~~Parking of any vehicle~~ **Inoperative or unregistered for operation** motor vehicles, **recreational vehicles, recreational vehicle equipment, boats, boat trailers, campers, camper shells, vans, minivans, pickup trucks** ~~boats or~~ similar vehicles **are parked** on areas which are not, **by permit**, expressly paved and/or otherwise surfaced to allow ~~the parking of vehicles.~~

i. **Recreational vehicles, recreational vehicle equipment, boats, boat trailers, campers or camper shells are parked:**

(1) **Within the front yard setback or**

(Alternate language: **Within the front yard setback so as to extend onto or over any public sidewalk, curb or edge of pavement.**)

(2) **Within side yards or**

(Alternate language: **Within side yards unless the side yard is screened by fencing or vegetation which must be maintained in a healthy and vigorous condition as long as**

**the vehicle is stored in the side yard.**

**(3) Exceptions: Vans, minivans, three-quarter, half ton, small pickup truck/camper combinations or other similarly sized vehicles may be parked in the driveway provided:**

**(a) The vehicle is currently registered.**

**(b) The vehicle is kept clean, in good repair and operating order.**

**(c) No portion of the vehicle or trailer extends onto or over any public sidewalk, curb or edge of pavement.**

~~g j.~~ **Storage Building materials are stored** for a period of longer than sixty (60) days ~~of any building materials.~~

**2. Structures or buildings, both permanent and temporary, or other lot improvements, which are subject to any of the following conditions have any one of the following characteristics:**

**a. Are structurally unsafe, either entirely or in part.**

**b. ~~Constitute~~ Are a fire hazard.**

**c. Have faulty weather protection, including but not limited to crumbling, cracked, missing, broken or loose exterior plaster or other siding, roofs, foundations or floors (including lack of paint or other protective finish), broken or missing windows or doors.**

**d. ~~A building or structure which is not completed within a reasonable time or~~ Are unfinished and for which the permit for such construction has expired.**

**e. Are unoccupied buildings which and have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements.**

**f. Temporary storage containers, cargo containers, shipping containers maintained on property in excess of fourteen (14) days.**

**f g. Are fences or walls which violate zoning regulations regarding height, or which are in a hazardous condition, or which are in disrepair, or which**

hinder free access to public ~~sidewalks~~ **right-of-way**.

~~g h.~~ **Are** signs, ~~both on-site and off-site (billboards),~~ which advertise uses no longer conducted or products **or services** no longer sold on the premises, except where such signs are legally permitted.

~~h. — Conduct of a business on property where the business is not entirely conducted within the structure in violation of the Zoning Ordinance and is not a legal non-conforming use pursuant to other provisions of this Code or the Zoning Code.~~

### **Fiscal Impact**

None. On July 27, 2004, the City Council expressed an interest in looking at additional or alternate enforcement mechanisms. The Code Enforcement Officer, Director of Finance, Director of Community Development and Interim City Manager have already begun the process of reviewing additional enforcement mechanisms with the City Attorney. Staff will be bringing proposed options to the City Council later this year. Options being examined include an administrative citation process and amendments to the City's Master Fee Schedule.

### **Recommendation**

It is recommended that the proposed changes to Chapters 7, Article XI, be introduced at this meeting by the City Council and that the Ordinance be placed on the next agenda for a second reading and adoption.

### **Alternatives**

1. Propose additional changes that Council believes are needed from a policy perspective to update Chapter 7, Article XI.
2. Take no action. The ordinance would then remain as currently written.

### **Public Contact**

This matter was placed on the agenda and posted as required by the California Government Code.

### **Attachments**

1. Staff Report from July 27, 2004 Meeting
2. Foster City Municipal Code Chapter 17.64
3. Proposed Ordinance

Respectfully submitted,

JEAN B. SAVAREE  
City Attorney

## ATTACHMENT 1

### STAFF REPORT FROM JULY 27, 2004 MEETING



## ATTACHMENT 2

### FOSTER CITY MUNICIPAL CODE CHAPTER 17.64

**ATTACHMENT 3**

**PROPOSED ORDINANCE**